



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 9, 1995

Mr. Edward H. Perry  
Assistant City Attorney  
City of Dallas  
City Hall  
Dallas, Texas 75201

OR95-265

Dear Mr. Perry:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32296.

The City of Dallas (the "city") received an open records request for "current reports, for the past two (2) years, on the above mentioned Dallas Apartment Complex" concerning 1) Abatement Unit/SAFE Team Activities, 2) prostitution activity, 3) narcotic activity, and 4) gang activity. You state that you have released to the requestor most of the requested information. You seek to withhold, however, certain other records pursuant to sections 552.107, 552.108, and 552.111.<sup>1</sup>

You first contend that a legal memorandum from within the city's legal department may be withheld pursuant to section 552.107(1), which protects information coming within the attorney-client privilege. In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and confidential attorney-client communications. Open Records Decision No. 574 (1990). Accordingly, these two classes of information are the only information contained in the memorandum that may be withheld pursuant to the attorney-client privilege.

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<sup>1</sup>Although you originally contended that a tape recording you submitted to this office for review comes under the protection of the "informer's privilege" as incorporated into section 552.101 of the Government Code, you subsequently informed this office that the tape recording is not responsive to the open records request. Accordingly, we need not determine at this time the extent to which the recording constitutes public information.

After reviewing the memorandum, we conclude that the city may withhold the information in this document in accordance with our markings pursuant to section 552.107(1).

You seek to withhold another memorandum from a "code enforcement officer" to his staff regarding a future inspection of the apartment complex. You contend that this document is excepted from required public disclosure by section 552.108 of the Government Code. Section 552.108, known as the "law enforcement" exception, excepts from required public disclosure:

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . ;  
[and]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement . . . .

When a governmental body claims section 552.108, the relevant question this office must address is whether the release of the requested information would undermine a legitimate interest relating to law enforcement or prosecution. Open Records Decision No. 434 (1986). One of the purposes of the exception is to protect law-enforcement and crime-prevention efforts by preventing suspects and criminals from using records in evading detection and capture. See Open Records Decision Nos. 133 (1976), 127 (1976). Whether disclosure of particular records will unduly interfere with law-enforcement efforts must be decided on a case-by-case basis. Attorney General Opinion MW-381 (1981).

This office has previously acknowledged that the "law enforcement exception" protects information the disclosure of which might reveal certain investigative techniques. See Open Records Decision Nos. 409 (1984), 216 (1978). The memorandum you seek to withhold pursuant to section 552.108 details the procedures to be followed by the police officers inspecting the apartment complex and lists the specific apartment units that are the target of the inspection. Although the time of the scheduled inspection has already passed, we nevertheless agree that the city may withhold portions of this document under section 552.108 because disclosure of that information may interfere with future inspections. We have marked the portions of this memorandum coming under the protection of section 552.108. The remaining portions of this document must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long, sweeping horizontal line extending from the end of the name.

Kay Hamilton Guajardo  
Assistant Attorney General  
Open Government Section

KHG/RWP/rho

Ref.: ID# 32296

Enclosures: Marked documents

cc: Mr. Lawrence W. Baker  
7323 Larchview Drive  
Dallas, Texas 75240  
(w/o enclosures)